BACKGROUND:
Last year, California Governor Gray Davis introduced his Urban Cleanup Initiative, intended to partner the State with local agencies and developers to clean up and redevelop brownfield sites.

The first component of that initiative, SB 667 (Sher, Chapter 912, Statutes of 2000) established the Cleanup Loans and Environmental Assistance to Neighborhoods Program. Through the program, the Department of Toxic Substances Control provides low-interest loans to investigate and clean up brownfield sites.

The "CLEAN" Program is a critical first step in removing obstacles to brownfield redevelopment. It provides a means to get the "information" about a site that is necessary to make informed development decisions. Information is not always enough, however.

Open-ended liability continues to cause uncertainties and dissuade lending institutions from providing financing and private developers from investing in brownfields. Environmental insurance policies, an effective tool that can help to reduce those uncertainties, may not be available or affordable, especially for smaller brownfield development projects.

WHAT IS THE "FAIR" PROGRAM?

SB 468 (Sher, Chapter 549, Statutes of 2001), the second part of Governor Davis' Urban Cleanup Initiative, established the California Financial Assurance and Insurance for Redevelopment Program (FAIR Program). Through it, Cal/EPA will make environmental insurance coverage available and affordable to stimulate private investment in brownfield development.

Modeled after the successful Massachusetts program, the FAIR Program has two parts:
- A pre-negotiated package of discounted environmental insurance products; and
- Subsidies to be used to offset the costs of premiums and deductibles.

Environmental Insurance Products To Be Offered
The environmental insurance products to be offered under FAIR include:
- Pollution Legal Liability Insurance (to address unforeseen conditions and third party liability for property damage and personal injury from pollution at a site);
- Cost Overrun Insurance (to cover costs of cleanups that are over and above cleanup cost estimates); and
- Secured Creditor Insurance (to cover loan default or foreclosure that may occur due to pollution conditions).

Selection of Insurance Carrier

Cal/EPA is to conduct workshops to develop a request for proposal to which interested, qualifying insurance companies are to respond. Through a competitive bidding process, the Secretary of Cal/EPA will select the insurance company or companies (depending upon whether the request for proposal specifies one or more than one company), which will provide the insurance products for a three-year period.

Subsidies for Environmental Insurance

Cal/EPA, with money appropriated by the California Legislature, will make the following subsidies available to persons conducting response actions at eligible properties who purchase the prenegotiated environmental insurance products:

- Up to 50% of the cost of environmental insurance policy premiums.
- Up to 80% of the self-insured retention amount of the cost overrun insurance policies, up to a maximum of $500,000.

Properties Eligible to Receive FAIR Program Subsidies

Persons conducting response actions at the following types of properties may apply for the environmental insurance subsidies under the FAIR Program:

- Abandoned, urban brownfields
- Underutilized properties

Note: Current economic conditions have made funding for subsidies temporarily unavailable. Cal/EPA and DTSC continue their efforts to provide FAIR Program subsidies.

For more information, contact:

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